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EX PARTE OR LATE FILED

January 15, 1998

DOCKETED ORIGINAL

NOTICE OF EX PARTE PRESENTATION

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
1919 M Street, NW
Washington, DC 20554

RECEIVED

JAN 15 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: *In the Matter of Application by SBC Communications Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance for Provision of In-Region, InterLATA Services in Oklahoma, CC Docket No. 97-121*

Dear Ms. Salas:

In accordance with the Commission's rules governing ex parte presentations, please be advised that on January 13, 1998 the attached letter was hand delivered to A. Richard Metzger, Jr., Chief of the Common Carrier Bureau, in connection with the above-referenced proceeding.

Should you have any questions concerning the foregoing, do not hesitate to contact me. In accordance with the Commission's rules, an original and two copies of this notification are submitted herewith.

Very truly yours,

Todd F. Silbergeld

Attachment

cc: Mr. Metzger
Ms. Milkman
Ms. Matthey
Ms. Su

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FILE COPY

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January 13, 1998

BY FACSIMILE AND HAND DELIVERY

Mr. A. Richard Metzger, Jr.
Chief
Federal Communications Commission
Common Carrier Bureau
1919 M Street, NW
Washington, DC 20554

Dear Mr. Metzger:

As you know, SBC Communications Inc. and the U.S. Department of Justice have been engaged in productive discussions over the past eight months on issues related to Section 271 relief. It is our sincere hope that, through a series of open and frank discussions on the various issues, we can achieve similar results with the Commission. We look forward to our first meeting, which has been scheduled for Friday, January 23, 1998.

For your information, I attach a recent status report on the discussions with the Department that was prepared by SBC's Marty Grambow, who has been involved in the meetings since their commencement. The report covers the areas of potential concern with regard to an SBC Section 271 application: (1) wholesale support systems (OSS); (2) access to unbundled network elements; (3) pricing; (4) reciprocal compensation; (5) co-location; and (6) number portability.

Thank you for your continued interest in this undertaking. Please give me a call if you have any questions concerning the foregoing.

Very truly yours,

A handwritten signature in black ink, reading "Todd F. Silbergeld".

Attachment

cc: Ms. Milkman
Ms. Matthey
Ms. Su



December 23, 1997

Donald J. Russell
Chief, Telecommunications Task Force
Antitrust Division
U.S. Department of Justice
1401 H Street, N.W., Suite 8000
Washington, D.C. 20530

Re: Status Report On Section 271 Issues

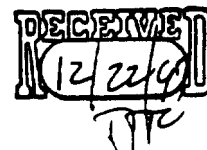
Dear Don:

In his speech to the FCBA/PLI conference on December 11, 1997, Joel encouraged the Bell companies to work closely with the Department to resolve issues before filing Section 271 applications. SBC Communications Inc. ("SBC or "Southwestern Bell ") has been working hard to do just that.

With the end of 1997 fast approaching, I am writing to provide you with a status report on our discussions of Section 271 issues with the Department staff from Southwestern Bell's perspective. Southwestern Bell is anxious to continue these discussions, and to achieve resolution of any outstanding issues with the Department as early as possible. Beginning immediately, we would like to set up an aggressive meeting schedule with the Department directed toward identification and settlement of SBC-related Section 271 issues. We are prepared to devote whatever time and resources may be required to accomplish that goal.

Status Report

As you know, the Department and SBC have been engaged in productive discussions over the past 8 months on issues related to Section 271 relief.



SBC's objective is to obtain the Department's support for all of its Section 271 applications. SBC appreciates very much the spirit of cooperation with which the Department staff has approached this work effort to date, and hopes to build upon that relationship.

Thus far, SBC and the Department have addressed six areas of potential concern with regard to SBC's next Section 271 filing: (1) wholesale support systems (OSS); (2) access to unbundled elements; (3) pricing; (4) reciprocal compensation; (5) collocation; and (6) number portability. The status of these discussions is as follows:

1. **Wholesale Support Systems:** Discussions concerning Southwestern Bell's wholesale support systems (often referred to as "operations support systems" or "OSS") have covered three areas: (a) performance measurements; (b) OSS interfaces for access to the pre-ordering, ordering, provisioning, maintenance and repair, and billing functions; and (c) stress testing.

(a) Performance Measurements: Pursuant to numerous discussions with the Department, Southwestern Bell has agreed to develop and implement a series of performance measurements consistent with the Department's evaluation of its Oklahoma Section 271 application and the DOJ and FCC opinions on the Ameritech Michigan application. Southwestern Bell has worked with the Department on this project for more than 6 months, and its proposed performance measurements incorporate every recommendation suggested by the Department and its OSS consultant. SBC understands that the Department has found SBC's performance measurements to be satisfactory for Section 271 purposes. Southwestern Bell appreciates the hard work of the Department staff and consultant on this issue, and will continue to work with the Department on a letter confirming that SBC's proposed measurements meet the requirements of the Act.

(b) OSS Interfaces: Since January of this year, Southwestern Bell has conducted a series of meetings with the Department staff to describe and demonstrate the capabilities of Southwestern Bell Telephone Company's (SWBT's) OSS interfaces. As you know, in its five-state region SWBT provides a variety of OSS interfaces that are designed to meet the needs of both large and small CLECs. Southwestern Bell believes it has adequately demonstrated that SWBT's OSS interfaces will provide CLECs with nondiscriminatory access to each of the functionalities identified by the FCC. Southwestern Bell understands, however, that the staff has some remaining questions, which we are prepared to address as soon as they are identified.

(c) Stress Testing: On the issue of stress testing, Southwestern Bell believes SWBT's EASE interfaces need no additional stress testing. As SBC has documented, EASE is designed to support CLEC resale ordering of residential and business services. EASE is not designed and cannot be used for the ordering of unbundled network elements. The EASE interfaces provided by SBC to CLECs for resale are the same electronic interfaces that are utilized by SWBT's retail sales representatives. As such, there should be no question that EASE has withstood the test of time and substantial commercial use.

SWBT designed its LEX and EDI interfaces for use by CLECs wishing to order unbundled elements. LEX and EDI are ready for testing and use by the CLECs. As the Department is aware, SWBT is prepared to test either one or both of these interfaces with AT&T and any other interested CLEC, and will continue to discuss the parameters of such a test with both AT&T and the Department.

2. **Access to unbundled network elements**: Consistent with its obligations under the '96 Act, SBC will provide CLECs with access to unbundled network elements in a manner that allows the CLECs to combine such elements themselves. SBC is in the process of developing the terms and

conditions for such access, and is prepared to continue its discussions with the Department relating to this issue.

Under certain circumstances, SBC also is prepared to provide CLECs with network elements in combinations, notwithstanding the Eighth Circuit decision that such provisioning is not required under the Act. SBC will offer CLECs the choice of ordering UNEs in combinations when and where SBC is able to obtain a fair, market-based price for making that optional service available. SBC already has had a number of discussions with the staff to describe its position on this issue, and is prepared to meet to resolve any remaining issues.

3. **Pricing:** Discussions between SBC and the Department relating to pricing can be divided into four basic subparts: (a) methodology; (b) nonrecurring charges; (c) deaveraging; and (d) treatment of access charges.

(a) Methodology: As described by SBC's experts at some length at a meeting with Department staff in November, SBC utilizes a forwarding looking incremental cost methodology to develop prices under Sections 251 and 252 of the Act. SBC's methodology does not include so-called embedded costs. Accordingly, SBC believes that the Department should have no difficulty with prices that are based upon this methodology.

(b) Nonrecurring Charges: The proper rate for nonrecurring charges remains a contentious issue. CLECs generally argue that nonrecurring charges are too high. Moreover, the CLECs maintain that when they order network elements that are already combined in our network to provide an end-to-end service, they should not have to pay the sum of the nonrecurring charges for each individual network element.

Within SBC's region, nonrecurring charges are designed to recover the cost of making individual network elements available to the CLECs. To the extent nonrecurring charges are based upon its forwarding looking

incremental cost methodology, SBC believes it is entitled to recover its costs when CLECs order unbundled network elements. CLECs purchasing a combination of unbundled network elements should likewise be assessed a nonrecurring charge or "glue charge" when SBC agrees to provide network elements in combination and the CLEC is not required to expend resources to combine such elements themselves. SBC is prepared to more fully discuss and resolve all pricing-related issues with the Department.

(c) Deaveraging: Deaveraging should not be a controversial issue in SBC's region. Several state commissions already have ordered deaveraged unbundled network elements prices. We should be able to take this issue off the table very soon.

(d) Access Charge Recovery: The recovery of access charges remains an open issue. As the Department is well aware, SBC's retail prices for many services do not fully recover their economic costs. Access charges help to cover those costs of service not recovered in the prices paid by the retail customer. The FCC has held that when an IXC providing local service with unbundled network elements wins the customer, it need not pay interstate access charges. State commissions addressing the intrastate access question have issued orders with different results. SBC will abide by those decisions unless and until they are overturned in court. Although access charge recovery should not be an issue as long as SBC is following the applicable law, SBC is prepared to discuss this issue further if necessary.

4. **Collocation**: SBC has fully explained its collocation policies and practices to the Department, and has shown the Department staff how it is providing physical collocation. Although SBC believes this issue has been resolved, we are prepared to address any remaining concerns the Department might have concerning collocation.

Donald J. Russell

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5. **Interim Number Portability:** SBC has explained and demonstrated how it provides interim number portability, and how it converts SWBT customers to CLEC service when the CLEC requests INP. Although SBC believes it has fully addressed the Department's concerns in this regard, we are more than willing to address any remaining questions.
6. **Reciprocal compensation:** The issue of payment of reciprocal compensation on Internet traffic is nothing more than a billing and legal dispute. It has been suggested that this issue might be resolved from the Department's perspective, if SBC were to escrow the amount in dispute pending the outcome of the legal issues. SBC would recommend that we set this issue aside temporarily, and address the other more significant issues listed above.

Please give me a call as soon as possible to set up a schedule for meeting to continue our discussion and resolution of the above matters, and to identify any other Section 271-related issues the Department may wish to pursue. Given the rapid changes that are occurring or may occur in the future, timing is critically important if SBC is to meet its goal of filing Section 271 applications for each of its states, with Department support, in the first half of next year. I look forward to hearing from you.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Marty", with a long horizontal flourish extending to the right.

Martin E. Grambow

cc: Phil Weiser